THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.13073 OF 1998

DATE : 27-6-2007

Between:

Karajada Manmada Rao .. Petitioner

And

1. The Regional Manager,
APSRTC, Srikakulam Depot,
Srikakulam and 2 others .. Respondents

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ORDER:

The petitioner claims to be a Cleaner in a private bus the route of which was nationalized and taken over by A.P.S.R.T.C. Petitioner would contend that under Circular No.10.11.1983, the respondent – Corporation had resolved to absorb five persons i.e., 3 drivers and 2 conductors on each displaced bus, that in the year 1989 genuine displaced persons were identified and absorbed into the service of the Corporation and, though the petitioner was identified as a genuine displaced employee, his case was not considered. Petitioner would further contend that in the year 1989 when displaced employees were called for interview, he had also appeared before the selection committee, and while he was not considered, his junior Sri G.Atchaiah was considered and absorbed as a cleaner. Petitioner would submit that as per Circular dated 10.11.1983 he was entitled to be absorbed as a cleaner. Petitioner would submit that, as per Circular dated 10.11.1983, five persons were to be absorbed whereas the Corporation had absorbed one driver, four conductors and one cleaner in respect of bus APS 7171 and that the cleaner who was absorbed was junior to the petitioner. Petitioner would rely on the judgment of the Division Bench of this Court in W.P.5186 of 1987 to submit that the respondents were required to prepare a list of displaced employees for absorption as and when vacancies arise and that, despite availability of vacancies in Srikakulam Region, no action was being taken by the respondents till date.

In the counter affidavit filed on behalf of the respondents it is stated that the route Pundi to Parvathipuram, where APS 7171 was plying was nationalized in the year 1987 and that the said

vehicle was identified as a displaced vehicle. It is stated that the Corporation had, thereafter, prepared a scheme for absorption of displaced employees who had worked on displaced vehicles. Respondents admit that the petitioner was sponsored by the owner of the vehicle as a cleaner, that the Selection Committee interviewed him along with others, that on the same vehicle one more cleaner by name Sri G.Atchaiah had also appeared before the Selection Committee for appointment to the post of cleaner and that the selection committee had made an endorsement in the guide-sheet that Sri G.Atchaiah was a genuine cleaner and was senior to the petitioner. Thus the Selection Committee had selected Sri G.Atchaiah as cleaner and absorbed him in the services of the Corporation. It is also stated that as per the Circular instructions norms were fixed at 0.46 and, as one cleaner was absorbed on this vehicle, the petitioner's case could not be considered. It is reiterated that the petitioner was junior to Sri G.Atchaiah and as such his case was not considered for absorption. It is stated that in view of the critical financial position of the Corporation, and in order to reduce the bus staff ratio on par with other State Road Transport undertakings in India, the Corporation in its Resolution No.56/98 dated 15.3.1998 had resolved to impose a total ban on further absorption of displaced employees and had communicated the same through Circular dated 16.7.1998. It is stated that, in view of the ban even genuinely displaced employees can no longer be absorbed. Respondents would point out that the petitioner had approached this Court ten years after he was displaced.

While it is no doubt true that the Division Bench of this Court, in W.P.5186 of 1987 dated 25.8.1987, had directed that a list of displaced employees be prepared and till all such persons were absorbed in the same or equivalent or suitable post, no outsider should be appointed to the concerned post, it is also to be noted that the petitioner is not a party to the said writ petition. The subsequent event of the Corporation having incurred huge losses necessitating the Board resolving not to absorb displaced employees any further is also a relevant factor to be taken into consideration. It is not for this Court to issue a mandamus directing absorption of displaced persons when the Corporation, for just and valid reasons, has taken a uniform policy decision not to absorb displaced employees henceforth. The Division Bench judgment relied upon by the petitioner would not entitle him to claim that, whatsoever be the financial crunch which the Corporation is going through, each and every displaced person must necessarily be absorbed. The Division Bench judgment cannot be interpreted as requiring the Corporation to do so. In any event, it is not even the petitioner's case that the Corporation has appointed any person other than displaced person in its service.

While the petitioner would contend that he is senior to Sri G.Atchaiah, who was absorbed as a cleaner, it necessary to note that Sri G.Atchaiah has not been arrayed as a respondent in the writ petition. In the absence of the affected person being arrayed as a respondent, it is not for this Court to examine the contention as to whether or not the petitioner is senior to the said Sri G.Atchaiah. Viewed from any angle, the petitioner is not entitled to

the relief sought for.

The writ petition fails and is accordingly dismissed. No order as to costs.

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27-6-2007

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